

No. 9/6/86-Lab./4195.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s (i) The State Transport Controller (Commissioner), Haryana, Chandigarh, (ii) The General Manager, Haryana Roadways, Jind.

IN THE COURT SHRI V.P. CHAUDHARY. PRESIDING OFFICER, LABOUR COURT, AMBALA.

Ref. No. 146 of 1984.  
(Old No. 41 of 1983)

SHRI RAM PARSHAD, WORKMAN AND THE MANAGEMENT OF THE MESSRS THE STATE TRANSPORT CONTROLLER (COMMISSIONER), HARYANA, CHANDIGARH, (II) THE GENERAL MANAGER, HARYANA ROADWAYS, JIND.

Present—Shri Tejinder Singh, for the workman.  
Shri A.R. Goyal, for the respondent.

#### AWARD

The Hon'ble Governor of Haryana in exercise of powers conferred,—vide clause (C) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Ram Parshad, workman and the Messrs G.M., Haryana Roadways, Jind originally to Labour Court, Rohtak. The terms of the reference are as under:—

“Whether termination of services of Shri Ram Parshad, workman was justified and in order? if not, to what relief is he entitled?”

On constitution of Labour Court at Ambala in April, 1984, this reference was received by transfer.

Workman alleged that he has served respondent management as a Conductor for five years. His services were wrongfully terminated on 29th July, 1980 without any fair and proper enquiry against the Punjab Punishment and Appeal Rules. It was also contended that Inquiry Officer acted as a Judge as well as prosecutor. Copies of documents on the basis of which charges were framed were not supplied to him. It was further alleged that procedure of enquiry was not explained to him nor he was heard in person even he was not allowed to adduce defence evidence.

Respondent-management contested the case and contended that the services of workman were terminated after a fair and proper enquiry in which full opportunity of cross-examination and leading defence evidence was provided to the workman. It was further contended the contentions raised by the workman in his statement of claim are basically wrong and baseless.

On the pleadings of the parties the following issues were framed for the just decision of this dispute.

#### Issues :

1. Whether termination order regarding the services of workman, dated 29th July, 1980 is justified correct? if not, its effect ? OPM
2. Whether enquiry was fair and proper, if so, its effect ? OPM
3. Relief.

Issue No. 2 was treated as preliminary issue.

I have heard Shri Tejinder Singh for workman and Shri A.R. Goyal for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under :—

#### Issue No. 2 :

In support of this issue management examined Shri Jawarhar Lal, Superintendent who stated that in September, 1979 he was posted as Superintendent in Jind Depot and was appointed enquiry officer,—vide Ex-M-1. He issued notice Ex-M-2 and M-3. Shri Ram Parshad was given full opportunity of cross examining witnesses and to lead defence evidence, in fact he charged Rs. 47 from five passengers and issued tickets of Rs. 40.45 Paise and rest of the amount was embezzled by him. In cross-examination he stated that list of witnesses was not supplied to Ram Parshad nor report of enquiry was given to him. MW-2 Satbir Singh also supported the case of the management.

Shri Ram Parshad appeared in the witness box he stated that he was not given the copy of enquiry report. List of witnesses, statement of witnesses were not furnished to him. The checking Inspector did not record statement of any passenger nor that Inspector checked his cash. He stated that he never confessed his guilt before G.M.

In view of this above evidence led by the parties it has become clear on the file as per admission of MW-1 that no copy of order of appointment of only Inquiry Officer, no list of witnesses no copy of statement of witnesses were ever given to the workman. However, from the statement of MW-2 it is clear that the workman stated that the reply which he has given against the charge sheet should be read his explanation as well as defence in this case.

It is also clear on the file that Government had enhanced bus fair and the rate of enhancement had not been supplied to all the Conductors and this fact was agitated by Shri Ram Parshad before the Checking Inspector and he clearly mentioned this fact while submitting his reply to the charge sheet served upon him. There is no evidence on the file that workman took more money than the existing rates had workman would have charged more fair from the passengers in those circumstances the Inspector was bound to record statement of those passengers from whom the workman had taken fair at enhanced rates.

The Checking Inspector also did not check the cash of the workman, so in fact there is no evidence even on merits on the file that the workman charged fair at enhanced rate and issued tickets or lesser amount.

From the evidence it is also clear that no intimation regarding appointment of Inquiry Officer no list of witnesses no copy of statement was ever supplied to the workman, in spite of, his demand during the enquiry proceedings.

MW-1 also admitted that enquiry report was also not supplied to the workman. The Inquiry Officer did not summon any passenger from whom the workman has charged more money for the tickets which they had purchased from the workman. Nor the Inquiry Officer took into consideration the fact that the Inspector who apprehended the workman did not even check the cash of workman Ram Parshad.

So in view of above discussions I reach at the conclusion that the enquiry in question, was not conducted in a proper and fair manner it is a tainted one.

When it has been established on the file that enquiry was not proper and fair. So termination order passed on its basis is also illegal and void. So it is also set-aside, on both these issues No. 1 & 2 are decided in favour of workman against management.

### Issue No. 3

For the fore-going reasons on the basis of my findings on issue No. 2. The order of termination regarding services of Ram Parshad workman is set-aside he be reinstated with continuity in service and with full back wage. Regarding the controversy in hand I pass award accordingly.

(V.P. CHAUDHARY)

Dated : 8-4-1986.

Presiding Officer,  
Labour Court, Ambala.

Endst. No. 1114

Dated : 9th April, 1986.

Forwarded (Four Copies) to the Financial Commissioner & Secretary to Government Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the I.D. Act, 1947.

(V.P. CHAUDHARY)

Presiding Officer,  
Labour Court, Ambala.